

EXHIBIT B

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE: NEW ENGLAND COMPOUNDING) MDL NO. 13-02419-RWZ
PHARMACY CASES LITIGATION)

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BEFORE: THE HONORABLE RYA W. ZOBEL AND
THE HONORABLE JENNIFER C. BOAL

STATUS CONFERENCE

John Joseph Moakley United States Courthouse
Courtroom No. 17
One Courthouse Way
Boston, MA 02210

August 7, 2014
2:30 p.m.

Catherine A. Handel, RPR-CM, CRR
Official Court Reporter
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1 that way.

2 That order was entered by Judge Saylor and then
3 pursuant to that order, back on June 5th, the trustee filed
4 the notice that that order required to allow him to
5 essentially vacate the premises and dispose of the remaining
6 equipment in the premises, and the reason for that is many
7 fold.

8 Some of the equipment may have value and could
9 provide a value to the estate. For example, there's a crimper
10 there that has never been taken out of shrink wrap that may
11 have substantial value. There's also expense in maintaining
12 the property. It needs to be heated. It needs to be insured.
13 There's a security system, things of that nature that run
14 monthly substantial expenses for the estate.

15 So, at this point where we're more than two years
16 after the fact, our view was that there literally is no
17 evidentiary value to anything that was left in the premises.
18 We have, as we've indicated in our papers, preserved what we
19 believe are the relevant ESI and documents. Mr. Fern's office
20 has done that. We think it's time to, essentially, let the
21 premises go. As a result, we've since filed the appropriate
22 notice.

23 Judge Saylor's order had two interesting components
24 to it: One, if someone wanted to object, they had to identify
25 specifically what it is they wanted to preserve; and, two,

1 there was a requirement that their solution for that not
2 require the trustee to continue to fund the preservation.

3 In accordance with the order, three parties filed
4 objections or preservation requests. We would submit to the
5 Court, none of them complied with Judge Saylor's order because
6 they neither identified specifically what they wanted to
7 preserve, nor did they indicate how they were going to pay for
8 it.

9 We started talking to those parties in an effort to
10 resolve it by agreement. They all indicated that, Well, we
11 really would like to see the premises and maybe after we see
12 them -- some said, if we just get to see them, we'll accnt to
13 the order.

14 Proving that no good deed goes unpunished, we agreed
15 to let them all tour the premises, to video the premises.
16 Other people stepped forward and said, Well, we didn't file a
17 preservation request, but we'll file a motion to file one
18 late. So, you should let us see the premises.

19 So, ultimately six different parties got to see the
20 premises for three hours apiece. Not surprisingly, after they
21 did, no one agreed to withdraw their preservation requests.

22 We filed a response to the preservation requests just
23 the other day in front of the Court. Our request is the same.
24 We believe we've preserved the relevant evidence, the ESI and
25 the documents. We don't believe any of the equipment in the

1 those, collected those, and those are in our database.

2 THE COURT: 30 months' worth?

3 MR. FERN: 30 days' worth, Judge.

4 THE COURT: You said from October --

5 MR. FERN: From October 2012 to September 2012. So,
6 a month going back. So, to do it right, from September
7 through October 2012, we have 30 days of videotape that were
8 still viable at the time we went in and did the preservation
9 and collection.

10 There is -- going in and looking at the equipment,
11 Judge, there is nothing in the same condition as it was in
12 October of 2012. There's been no air conditioning. There's
13 been no vent. There's been no negative air pressure. No one
14 has been working in there. So, it's fair to say that there's
15 nothing in the same condition, which is a similar argument
16 that Magistrate Boal heard back in Christmastime of 2012, when
17 we -- when the PSC wanted to do their inspection and the
18 Magistrate, in her infinite wisdom, gave them a four-day
19 inspection with videos, experts, drilling, and the PSC took
20 whatever they wanted to do at the time.

21 It's fair to say that the evidence they collected
22 back then is a much fairer representation of what the clean
23 room looked like at the time of the alleged negligence than it
24 does 20 months later, with no one being in there.

25 It's very -- the rhetoric I'm hearing from the people

1 THE COURT: That's another one to be ignored.

2 MR. BUSCH: Not to be ignored, necessarily, but
3 perhaps to be put off for another day.

4 THE COURT: Is there anything else that we need to
5 talk about today that is not on the agenda?

6 (No response.)

7 THE COURT: As always, I thank you for your help and
8 we will meet again on September 17th, those of you who have
9 motions, and on the 18th, those of you who do not.

10 MS. JOHNSON: Thank you, your Honor.

11 MR. STRANCH: Thank you, your Honor.

12 (Adjourned, 3:37 p.m.)

13

14 C E R T I F I C A T E

15 I, Catherine A. Handel, Official Court Reporter of the
16 United States District Court, do hereby certify that the
17 foregoing transcript, from Page 1 to Page 58, constitutes to the
18 best of my skill and ability a true and accurate transcription of
19 my stenotype notes taken in the matter of No. 13-md-2419-RWZ, In
20 Re: New England Compounding Pharmacy, Inc., Products Liability
21 Litigation.

22

23 August 10, 2014
24 Date

/s/Catherine A. Handel
Catherine A. Handel, RPR-CM, CRR

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